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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,244	06/24/2003	Junichi Ujii	848075/0048	5659

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SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, NY 10022

EXAMINER

LU, ZHIYU

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,244

Applicant(s)

UJII, JUNICHI

Examiner

Zhiyu Lu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 09/10/2007 have been fully considered but they are not persuasive.

Regarding rejections on claims 1, 7, 9 and 15, Applicant has argued that it is improper to combine Ozaki and Homma et al. because Ozaki does not change having another mode and Homma et al. only teach incoming call announcement.

However, the Examiner does not agree. Applicant's invention is about providing an announcement when changing into camera mode or taking a picture for the purpose of preventing privacy from being infringed. Ozaki teaches an invention of having the same purpose equipped camera, where an image-capturing device output a predetermined announcement sound (paragraph 0004). The only limitation missing is having the capability of detecting camera mode. Homma et al. teach a camera equipped portable terminal having a capability of detecting camera mode. In view of Ozaki's invention to warn people around for camera usage, it would have been obvious to one of ordinary skill in the art to recognize that Homma et al.'s camera mode entering would need a warning to people around for camera usage. Though Homma et al.'s announcement is applied when detecting incoming call, Homma et al. teach the portable terminal have the capabilities of detecting mode/state and provide announcement (column 2 lines 46-57). So, it would have been obvious to one of ordinary skill in the art to recognize the compatibility of incorporating Homma et al.'s portable terminal with Ozaki's invention. Thus, the rejections are proper and maintained.

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Regarding rejections on claims 7 and 15, Applicant has argued that Homma et al. teach detecting a full-pressed state instead a half-pressed state as claimed.

However, the Examiner does not agree. First of all, it would have been obvious to one of ordinary skill in the art that the time between a button half-pressed and full-pressed varies from user to user, which means announcement can come out either before or after a picture is taken. It does not carry much patentable weight. Both Ozaki and Homma et al. teach detecting control signal from camera shooting button and outputting announcement, and especially Homma et al. teach the capability of detecting half-pressed state (column 7 lines 49-60). It would have been obvious to one of ordinary skill in the art to recognize the alternative and as a design preference to modify the announcement method of Ozaki and Homma et al. into detecting half-pressed signal instead of full-pressed signal to output an announcement.

Thus, the rejections are proper and maintained.

Regarding rejections on claims 4 and 12, Applicant has argued that Homma et al. do not teach the aspect of stopping the output of an announcement sound in order to prevent the announcement sound from being recorded.

However, the Examiner does not agree. First of all, the arguments do not reflect in the claims. Actually, the claims are about stop outputting announcement while an image is being recorded/captured. Ozaki teaches outputting announcement after image capturing. And Homma et al. teach prohibiting voice announcement while shooting (column 5 lines 9-15), which would have been obvious to one of ordinary skill in the art to recognize the same can be applied in camera mode to prevent disturbance while capturing an image.

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Thus, the rejections are proper and maintained.

Regarding rejections on claims 2 and 10, Applicant has argued that Ogino does not teach a timing section for outputting the predetermined announcement sound.

However, the Examiner does not agree. Ozaki and Homma et al. teach limitations of claims 2 and 10 except having a timer to trigger periodic announcement. And Ogino teaches an image-capturing device having the capability of generating adjustable and periodic repeats of an audible tone of the voice of predetermined length (paragraph 0026), which would have been obvious to one of ordinary skill in the art to recognize that the same can be implement within the method of Ozaki and Homma et al., in order to attract attentions of others to notice the operation of the camera in image-capture.

Thus, the rejections are proper and maintained.

Regarding rejections on claims 5 and 13, Applicant has argued that Chen fails to teach the change in light intensity is used to trigger an alarm when changing to a camera mode because does not teach a portable terminal having a camera mode and a communication mode.

However, the Examiner does not agree. First of all, the purpose of Ozaki's invention is to prevent camera from hidden operation. Chen teaches a photo monitoring apparatus that outputs audible alarm when the luminance around is less than a predetermined brightness (column 1 lines 6-11), which would have been obvious to one of ordinary skill in the art to recognize its utility in warning photographer low light environment as the same in warning hidden camera environment, hidden in the dark. So, it would have been obvious to one of ordinary skill in the

art to recognize and utilize the invention of Chen into the method and portable terminal of Ozaki and Homma et al. for alerting people around to achieve the purpose of preventing camera from hidden operation.

Thus, the rejections are proper and maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-4, 6-9, 11-12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki (JP10-031265) in view of Homma et al. (US Patent#6950126).

Regarding claim 1, Ozaki teaches an announcement method for a portable terminal (image-capturing device) comprising an image-capture section, the method comprising outputting a predetermined announcement sound when trying to take a picture (abstract, paragraph 0004).

But, Ozaki does not expressly disclose having another mode besides camera mode.

Homma et al. teach a portable terminal having both communication mode and camera mode that provides camera state detection and voice announcement (column 2 lines 46-57), which would have been obvious to one of ordinary skill in the art to incorporate the method of Ozaki into the portable terminal of Homma et al. in correspondence to camera state detection, in order protect the privacy of others.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate camera operating announcement method of Ozaki into the portable terminal of Homma et al., in order to notify surroundings for operating camera mode and prevent privacy from being infringed.

Regarding claim 7, Ozaki and Homma et al. teach an announcement method for an image-capturing device as explained in response to claim 1 above.

Ozaki and Homma et al. do not expressly disclose outputting a predetermined announcement sound when an image-capturing button has been half-pressed.

However, Homma et al. teach the portable terminal having the capability of detecting state of half-pressed button in camera mode (column 7 lines 49-60), which would have been obvious to one of ordinary skill in the art to recognize that embed announcement can be outputted in detecting half-pressed signal instead of full-pressed signal by designer's preference.

Regarding claim 9, Ozaki teaches a portable terminal comprising:

- an image-capturing section (3 of Fig. 1);

- a sounding body (6 of Fig. 1); and

- a control section which outputs a predetermined announcement sound from the sounding body when it has been detected that imaging-capturing section being used (paragraphs 0005-0009).

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But, Ozaki does not expressly disclose the portable terminal comprising a selecting section, which selects a camera mode for using the image-capturing section and announcing when detecting the selecting section has selected the camera mode.

Homma et al. teach a portable terminal having both communication mode and camera mode that provides camera state detection and voice announcement (column 2 lines 46-57), which would have been obvious to one of ordinary skill in the art to incorporate the method of Ozaki into the portable terminal of Homma et al. in correspondence to camera state detection, in order protect the privacy of others.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate camera operating announcement device of Ozaki into the portable terminal of Homma et al., in order to provide the portable terminal the function to notify surroundings for operating camera mode and prevent privacy from being infringed.

Regarding claim 15, Ozaki and Homma et al. teach a portable terminal as explained in response to claim 9 above.

Ozaki and Homma et al. do not expressly disclose outputting a predetermined announcement sound when an image-capturing button has been half-pressed.

However, Homma et al. teach the portable terminal having the capability of detecting state of half-pressed button in camera mode (column 7 lines 49-60), which would have been obvious to one of ordinary skill in the art to recognize that embed announcement can be outputted in detecting half-pressed signal instead of full-pressed signal by designer's preference.

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Regarding claims 3 and 11, Ozaki and Homma et al. teach the limitations of claims 1 and 9.

Ozaki and Homma et al. teach the announcement sound is outputted from one of a speaker for announcing incoming-calls or an ear speaker since the speaker of the portable terminal is the only available sound-outputting device.

Regarding claim 4, Ozaki and Homma et al. teach the limitation of claim 1.

Ozaki teaches making announcement after capturing an image (paragraphs 0005-0009).

Homma et al. teach the prohibiting output announcement while shooting in moving video mode (column 5 lines 9-15), which would have been obvious to one of ordinary skill in the art to recognize the same can be applied in the camera mode of Ozaki and Homma et al., in order to prevent disturbance while capturing an image.

Regarding claims 6 and 14, Ozaki and Homma et al. teach the limitations of claims 1 and 9.

Ozaki and Homma et al. teach the control section restricts the output level of the predetermined announcement sound to a fixed output level, where would have been obvious to one of ordinary skill in the art to recognize that output level of speaker in the portable terminal is inherently set.

Regarding claims 8 and 16, Ozaki and Homma et al. teach the limitations of claims 7 and 15.

Homma et al. teach detecting whether a button being fully-pressed (column 7 lines 49-60), which would have been obvious to one of ordinary skill in the art to modify the announcement of Ozaki and Homma et al. into outputting another announcement at detecting button being fully-pressed, in order to provide effective announcement twice to alarm others.

Regarding claim 12, Ozaki and Homma et al. teach the limitation of claim 9.

Ozaki and Homma et al. teach further comprising a recording section which records an image input via the image-capturing section.

Homma et al. teach the prohibiting output announcement while shooting in moving video mode (column 5 lines 9-15), which would have been obvious to one of ordinary skill in the art to recognize the same can be applied in the camera mode of Ozaki and Homma et al., in order to prevent disturbance while capturing an image.

3. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki (JP10-031265) in view of Homma et al. (US Patent#6950126) and Ogino (JP11-168646).

Regarding claim 2 and 10, Ozaki and Homma et al. teach the limitations of claims 1 and 9.

But, Ozaki and Homma et al. do not expressly disclose comprising a timing section which measure time, wherein the timing section outputs a signal each time a fixed period of time elapses after it was detected that the selection section has selected the camera mode, and wherein the control section causes the sounding body to output the predetermined announcement sound whenever the signal is output from the timing section.

Ogino teaches a photographic device having a timing device and carrying out periodic voice generation (paragraph 0026) in voicing out camera operation, which would have been obvious to be noticed by people around.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate periodic voice generation in photographic device taught by Ogino into the modified method and device of Ozaki and Homma et al., in order to attract attentions of others to notice the operation of the camera in image-capture.

4. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki (JP10-031265) in view of Homma et al. (US Patent#6950126) and Chen (US Patent#5530432).

Regarding claims 5 and 13, Ozaki and Homma et al. teach the limitations of claims 1 and 9.

But, Ozaki and Homma et al. do not expressly disclose the announcement sound is output only in a case where the luminance around the portable terminal is less than a predetermined brightness. Chen teaches an alarm device output sound in a case where the luminance around it is less than a predetermined brightness (column 1 lines 6-11), which would have been obvious to one of ordinary skill in the art to recognize its utility in warning photographer low light environment as the same in warning hidden camera usage environment, hidden in the dark.

Therefore, it would have been obvious to one of ordinary skill in the art to recognize and utilize the invention of Chen into the method and portable terminal of Ozaki and Homma et al. for alerting people around to achieve the purpose of preventing camera from hidden operation.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zhiyu Lu whose telephone number is (571) 272-2837. The examiner can normally be reached on Weekdays: 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Zhiyu Lu
October 17, 2007

zL


NAY MAUNG
SUPERVISORY PATENT EXAMINER